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Article (Published Version)

Hampshire, James (2013) Citizenship, migration, and the liberal state. Migration and Citizenship: Newsletter of American Political Science Association Organized Section on Migration and Citizenship, 1 (1). pp. 37-43.

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Citizenship, Migration, and the State

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Over the last twenty years, few concepts have had to endure more conceptual stretching than citizenship. Citizenship is global, cosmopolitan, urban, cultural, environmental, corporate and sexual, to mention just some of the adjectives to which it has been attached. As a result, citizenship risks becoming everything and nothing at the same time. As Giovanni Sartori once complained, "gains in extensional coverage tend to be matched by losses in connotative precision" (1970: 1035). Arguably one of the most important contributions of political scientists working on citizenship, as well as political sociologists and normative political theorists, has been to arrest this conceptual entropy by bringing the state back into the study of citizenship, or more precisely by relocating citizenship as a core institution of the contemporary liberal state (see, for example, Joppke 2010). Understood as membership of a state, the fundamental importance of citizenship for international migration, and indeed of migration for citizenship, is brought squarely into view.

Citizenship and Migration

Today, citizenship and migration are so intimately related that it seems strange they could ever have been treated separately. Citizenship constitutes and shapes international migration, while international migration has wrought transformations in citizenship. Yet some of the classic literature on citizenship ignores migration altogether. T. H. Marshall's (1949) influential account of the evolution of citizenship – still useful for its disaggregation of civil, political, and social rights – does not consider migration at all. Focused on citizenship as an instrument of social integration to ameliorate class divisions, and writing before the onset of mass immigration in Europe, Marshall does not entertain the externally exclusionary dimension of citizenship: the fact that it is as much an instrument of social closure as inclusion. To read Marshall's account of citizenship is to realise that the past really is a foreign country (the metaphor seems apt).

It was in the 1990s that political scientists, sociologists and philosophers began to rethink citizenship in an age of migration. The emerging literature focused on two questions: how to explain citizenship regimes, and how to evaluate the significance of citizenship. In addressing these questions, two opposed positions emerged: on the one hand, citizenship was analysed as an institution rooted in the nation, a formal expression of deeply held national-cultural attachments; on the other, citizenship rights were argued to be breaking free from their national origins and

becoming 'postnational'. The *locus classicus* of the first position, Rogers Brubaker's *Citizenship and Nationhood in France and Germany* (1992), argued that differences in these two countries' citizenship laws and traditions – France's *jus soli* attribution of citizenship according to birth on French territory against Germany's *jus sanguinis* attribution according to descent – were expressions of contrasting national identities: France's supposedly civic conception of nationhood versus Germany's ethnic conception. Brubaker's argument that citizenship laws are formalizations of national cultural idioms implied that citizenship laws are resistant to change, and that differences would likely persist despite the 'great migratory waves' washing over Europe. His analysis verged on a cultural determinism in which there was little role for intra-national contestation, in other words for a domestic politics of citizenship. It therefore looked increasingly unsustainable as citizenship was contested in these (as in other) countries and moreover as citizenship was liberalized, notably in Germany where reforms in 1999 introduced conditional *jus soli*.

If the national-cultural account of citizenship struggled to account for developments during the 1990s and 2000s, the postnational argument didn't fare well either. The starting point for postnationalism was the plausible observation that immigration was blurring the distinction between citizens and aliens. The need to integrate immigrants was leading liberal democracies to grant selected rights to non-citizen permanent residents, thus formal citizenship status appeared to be less relevant for the enjoyment of rights that were once the preserve of citizens. This was the argument of Tomas Hammar (1990) who coined the term 'denizenship' to describe the status of permanent residents living between citizenship and alienage. Others went much further, arguing that nothing less than a 'revolution' was underway in which national citizenship was being wholly devalued as a generator of rights (Jacobson 1996: 3). The most influential statement of this thesis, Yasemin Soysal's *The Limits of Citizenship* (1994), argued that national citizenship was being supplanted by 'postnational membership,' a status based on human rights discourse and international law, and premised on 'universal personhood' rather than a particular national identity. Postnationalism enjoyed a brief heyday in some parts of academia, but it was soon subjected to a barrage of theoretical and empirical criticism that is too wide-ranging to discuss here (for a review see Hansen 2009). Suffice it to say that although postnationalists were correct to argue that immigration was transforming citizenship, their claim that rights were being decoupled wholesale from national citizenship was at best a wild exaggeration.

Citizenship Redux

Today, all serious scholars of citizenship and migration agree that national citizenship is very far from being eclipsed. Citizenship remains and in some cases is increasingly important for access to rights. National level political rights, including the right to stand for high public office and vote in national elections, are almost everywhere the preserve of citizens (Chile, Malawi, New Zealand, and Uruguay are notable exceptions). Regarding social rights, the significance of citizenship is mixed, but not unimportant. Whereas contributory benefits such as unemployment compensation and pensions are generally insurance-based and accrue through participation in the labour market, non-contributory social programmes such as income support, disability benefits, and housing benefits are in many countries restricted to citizens or offered to non-citizens only at a lower level of benefit. Even civil rights, the most universalistic of liberal rights, are potentially affected by citizenship, as became apparent in the UK and US government's adoption of counterterrorism

powers specific to aliens in the aftermath of 9/11 (Hansen 2009; see Hampshire, forthcoming 2013, for a review of why citizenship matters for rights).

None of this is to deny that immigration has effected a transformation of citizenship (Joppke 2007). The most important effect of immigration, especially in Europe, has been the liberalization of laws regulating access to citizenship status. Unlike the settler states of North America and Oceania, where citizenship policies have long been geared towards the integration of immigrants and their descendants, in Europe citizenship laws were developed well before mass immigration. In many European countries, laws governing the acquisition of citizenship at birth and by naturalization were far from inclusionary: descent-based *jus sanguinis* traditions were common and high barriers to naturalization were widespread in the 1990s. Over the last two decades, there has been a clear trend towards the liberalization of laws governing acquisition of citizenship at birth. In many European countries, descent-based principles have been replaced or supplemented with automatic or conditional *jus soli*, which attributes citizenship to children of immigrants born on the state's territory. Thus second and third generation immigrants automatically or at least more easily become citizens of the countries in which they are born. A study of 33 European countries¹ conducted by the European Union Democratic Observatory on Citizenship (EUDO) found that between 1989 and 2010, *jus soli* in some form was introduced or strengthened in 12 of the countries surveyed, making a total of 19 with some form of *jus soli* provision in 2010 (Honohan 2010: 9).

The second way of acquiring citizenship is, of course, naturalization. Here the story is more mixed. On the one hand, several European countries have reduced the residency requirements for naturalization and most major immigrant-receiving countries now tolerate dual nationality. During the 1980s, just six of the then 15 EU member states allowed dual nationality for naturalizing immigrants; by 2012, ten of these states officially tolerated dual nationality and among the five countries that did not, there were significant exceptions in three (Wallace Goodman 2010: 10). The only Western European countries that enforce a prohibition on dual nationality today are Austria and Denmark. On the other hand, several European countries have recently introduced more stringent language requirements and country knowledge tests for naturalization. Citizenship tests are longestablished in Canada and the United States, but they are novel in Europe. Just six out of the 33 countries in the EUDO study operated formal language tests in 1998; by 2010, nineteen countries operated formal tests, including most of the major immigrant receiving countries (Wallace Goodman 2010: 16). The trend towards country knowledge tests is not as strong, but significant nonetheless. In 1999, just four European countries (Hungary, Latvia, Estonia, and Lithuania) operated formal country knowledge tests; by 2010, twelve European countries used country knowledge tests, including major immigrant destination countries such as Austria, Denmark, Germany, the Netherlands, and the United Kingdom (Wallace Goodman 2010: 15-16). These tests polarize opinion and are the subject of considerable debate (see below).

The overall direction of travel can be seen through Marc Morjé Howard's (2009) citizenship policy index. For each country, Howard codes policies on *jus soli*, residency requirements, and toleration

¹ The 27 EU member states plus Croatia, Iceland, Moldova, Norway, Switzerland, and Turkey.

of dual nationality on a scale of 0-2 according to how liberal or restrictive they are, and then adjusts the score for civic integration requirements and actual naturalization rates. His aggregate index shows a clear trend towards more liberal citizenship policies across Western Europe. Only Denmark became significantly more restrictive between 1989 and 2009, and several countries became more liberal. Beyond Europe, there has been little change in the citizenship policies of major destination countries since the 1980s, largely because these countries' citizenship policies are, as mentioned above, already adapted to the demands of integrating newcomers. Interestingly, the one case of significant reform is Australia, where in 2007 the residence requirement for naturalization was increased from two to four years, a restrictive rather than liberalizing change albeit one that still leaves Australian policy comparatively liberal.

While the recent experience of Europe suggests that there are strong imperatives driving the governments of immigrant-receiving countries towards liberalization it is important to avoid a teleological account. The need to incorporate immigrants coupled with liberal norms of inclusion does generate pressure for liberalization, but there are also latent pressures to maintain restrictive policies in many liberal democracies. Public opinion polls reveal significant levels of opposition to immigrants and demands for more restrictive policies. What matters is which of these latent pressures are more effectively mobilized. Howard proposes a two-step model. First, citizenship reform will occur more often under centre-left than centre-right governments. Second, where anti-immigrant sentiment is effectively mobilized by far right parties or through populist referendum campaigns citizenship reforms will be blocked. The evidence broadly supports these predictions. Most citizenship liberalizations in Europe have occurred under centre-left governments. And countries with significant far right parties, such as Austria, Italy and Denmark, have not liberalized their citizenship laws, whereas those that did liberalize, including Finland, Germany, the Netherlands, Portugal, Sweden, all had low levels of far right support at the time of reform (Howard 2009: 65-67).

Liberal Norms

Over the last twenty years, then, political scientists and sociologists have shown that national citizenship continues to matter for rights, and that access to the status of citizenship has generally been liberalized albeit with some exceptions and countertrends. These developments raise a number of normative questions about how citizenship *should* be adapted to an era of mass mobility. Space precludes a detailed treatment, so I shall mention just two questions that political theorists have examined in recent years: How should access to the status of citizenship be regulated? And how should political rights attach to international migrants, both non-citizen residents (immigrants) and non-resident citizens (emigrants)?

It is virtually a tautology that liberal theorists support the liberalization of citizenship. The spread of *jus soli*, reduction in residency requirements for naturalization, and increased toleration of dual nationality are variously implied by liberal principles of individual freedom and equality. Since citizenship still matters for rights, liberal justice requires that permanently resident immigrants and their children are able to become citizens without major obstacles. *Jus soli* is especially important to prevent the formation of a class of residents who live in a given country but are excluded from the political community. The situation of second and third generation immigrants without equal political and other rights cannot long be tolerated in a liberal democracy.

An area in which there is more contention among liberal theorists is naturalization policies, particularly language and country knowledge tests (see Bauböck and Joppke 2010 for a range of views). Joseph Carens (2002) argues that access to citizenship through naturalization should be as easy as possible, conditional only upon a relatively short residency requirement. Applicants for naturalization should not be tested for language ability or country knowledge, but presumed competent by virtue of a period of residence. Carens argues that residence establishes *de facto* membership of a society and thereby generates a claim to *de jure* membership of the political community. The governments and citizens of destination countries may well wish that immigrants acquire a facility in the official language and knowledge of society, but as a matter of liberal justice they cannot make citizenship conditional on demonstration of these things. This is a powerful argument, but it is clearly at odds with the spread of language and knowledge tests in Europe as well as their longstanding use in North America, and moreover it has been queried on principled grounds. In response to a range of critics, including communitarians and republicans, several liberal theorists have conceded that functioning democracies require a citizenry equipped with civic skills and competencies, and even what John Rawls described as ‘cooperative political virtues’ (Rawls 2001: 116; cf Macedo 1990). It is a short step from here to argue that naturalization requirements are a legitimate way of promoting these competencies and attributes (Hampshire 2011). This is not to say that anything goes: naturalization tests in liberal states should not probe the personal opinions or beliefs of applicants, nor should they seek to test knowledge about arcane historical or cultural events, but to the extent that some level of language and civic knowledge is essential for effective citizenship, then demonstration of this knowledge as a condition of naturalization might be thought consistent with liberal justice.

A second normative debate about citizenship and migration relates to the political rights of international migrants. This debate considers both immigrants’ rights in receiving countries and emigrants’ rights for transnational political participation. Since non-citizen residents are generally unable to vote or stand in national elections, immigration challenges a core principle of democracy, namely that all those who are subject to a political authority and its laws should have an equal right to participate and be represented in the making of those laws (Rubio-Marin 2000). Their exclusion from full political participation means that immigrants cannot represent their interests in the democratic process on an equal footing, something that becomes increasingly significant in the context of *anti-immigrant* mobilization. One way to address this would be to decouple political rights from citizenship and extend voting rights to all residents. However, aside from being politically unfeasible in most countries, residence-based voting would eviscerate citizenship and undermine the very idea of a self-determining political community as something more than an association of people living on the same territory. Arguably a more practicable and normatively desirable response to this problem is to make access to citizenship relatively straightforward (*jus soli*, short residency requirements, etc.) and actively encourage naturalization.

Immigrants have received most attention in the literature on political rights, but equally interesting questions relate to emigrants: to what extent should citizens who have left the territory of a state to reside in another retain their rights, and indeed their obligations? This question is increasingly pertinent in the light of attempts by governments of many sending countries to engage their overseas citizens, often with the intention of harnessing their development potential through

remittances or investment. Here, the same criterion that speaks in favour of the inclusion of immigrants – residence – speaks against the extension of rights to emigrants. On a strict residency-based view, rights should not travel beyond national borders; non-resident citizens forfeit their right to vote or stand for office. In practice, however, many states do allow expatriates to vote and some even reserve seats in their parliaments for overseas constituents (e.g. France and Italy). Theoretically speaking, there are several arguments against a narrow residency requirement, the most powerful of which being that laws and decisions made by a sending-country government may affect overseas citizens. In the case of the United States, for example, the obligation of citizens to pay income tax regardless of where they reside could be argued to generate a corresponding right to vote from overseas. Yet limits based on residence should not be dismissed. Claudio López-Guerra (2005), for example, has argued that permanent non-residents should be disenfranchised on the grounds that they are not fully subject to the laws of their home country. In practice, while some states extend overseas voting rights indefinitely, many others set time limits after which the right to vote expires. Rainer Bauböck (2007) offers some theoretical support for this practice, with his conception of ‘stakeholder citizenship’ under which voting rights may be extended to non-resident citizens, but not indefinitely and not for generations born abroad who have never lived in the country of origin.

Conclusion

Over the last twenty years international migration has undoubtedly brought about transformations in liberal democratic citizenship. But as the growing political science literature has shown, these transformations have not resulted in citizenship’s redundancy. Contra postnationalists, national citizenship remains important for immigrants, not only for their political, but also some social and civil rights. The citizenship a person inherits in the ‘birthright lottery’ continues fundamentally to affect his or her life chances (Shachar 2009). As destination states continue to grapple with the integration of immigrants and sending states seek to engage with their emigrants, the question of how to adapt citizenship to an age of migration will persist.

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Teacher's Corner:

Teaching and Practicing the Politics of Immigrant Rights in "America's Whitest State"

Instructor: Leila Kawar, lkawar@bgsu.edu

Course name: Immigrant Rights in Theory and in Practice

Institution where the course was taught: Bates College, Lewiston, Maine

What made this course distinctive or unusual?

This was an intensive five-week "Short Term" course taught at the end of the academic year, when students are expected to participate in 20 hours per week of focused instruction in a single subject. Although Short Term courses are graded, they are more experimental and hands-on than traditional classroom instruction. When I thought about what I could do within these constraints, I envisioned a "service-learning" course along the lines of a law school immigrant rights clinic. But rather than offering legal services to immigrant clients, I wanted the practical side of the course to involve student volunteer placements with grassroots organizations in Maine that work to advance immigrant rights. The idea was to pair these volunteer internships with assigned readings drawn from the scholarship on immigrant rights political mobilization, such as Jennifer Gordon's *Suburban Sweatshops*. As a class, we also watched and discussed a number of films documenting community-based immigrant rights activism. These in-class discussions aimed to provide the students with a set of concepts for understanding how their volunteer experiences with grassroots advocacy organizations were contributing to building social change from the ground up.

What was it like teaching a "service-learning" course on immigrant rights in Maine, the state which the census named as the least diverse in the nation?

There were actually a number of advantages to teaching this kind of course in a place like Maine. The world of state politics in Maine is small enough that undergraduates can participate in political